

AMENDED IN ASSEMBLY JANUARY 22, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1356

Introduced by Assembly Member Houston

February 23, 2007

An act to amend Section 1695.17 of the Civil Code, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1356, as amended, Houston. Real property: equity purchasers.

(1) Under existing law, an equity purchaser is liable for all damages resulting from any statement made, or act committed by, the representative of the equity purchaser, as defined, in any manner connected with the equity purchaser's acquisition of a residence in foreclosure, receipt of any consideration or property from or on behalf of the equity seller, or the performance of certain prohibited acts. Existing law requires the representative of the equity purchaser to provide a statement in writing to all parties to the contract, under penalty of perjury, and written proof of licensure and bonding to the equity seller, as specified.

This bill would instead require the representative of an equity purchaser to provide to the parties to a contract written proof of licensure, as specified. The bill would also require the representative to provide a statement under penalty of perjury and written proof *to the parties to the contract* that he or she has either (1) satisfied a certain minimum professional liability coverage requirement ~~or (2) met a certain minimum bonding requirement~~ and has an unrestricted real estate license

in good standing, as described by the regulations of the Real Estate Commissioner, that is not restricted pursuant to the Real Estate Recovery Program, as specified, *or (2) met a certain minimum bonding requirement.* ~~Because~~

Because the bill would expand the scope of the existing crime of perjury, it would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1695.17 of the Civil Code is amended
2 to read:

3 1695.17. (a) A representative, as defined in subdivision (b)
4 of Section 1695.15, deemed to be the agent or employee, or both
5 the agent and the employee of the equity purchaser is required to
6 provide written proof to the parties to the contract that the
7 representative has a valid current California Real Estate Sales
8 License and that the representative meets the financial
9 responsibility requirement described in subdivision (c).

10 (b) The failure to comply with subdivision (a) shall at the option
11 of the equity seller render the equity purchase contract void and
12 the equity purchaser shall be liable to the equity seller for all
13 damages proximately caused by the failure to comply.

14 (c) For purposes of this section, a representative shall
15 demonstrate financial responsibility by providing written proof ~~of~~
16 *to the parties to the contract* and a statement under penalty of
17 perjury that he or she has *obtained* either of the following:

18 (1) Professional liability coverage in an amount equal to ~~at least~~
19 ~~twice the value of the property that is subject to the contract, or~~
20 ~~one million dollars (\$1,000,000), whichever is less;~~ and an
21 unrestricted real estate license in good standing as described by
22 the regulations of the Real Estate Commissioner pursuant to
23 Chapter 6 (commencing with Section 2705) of Title 10 of the
24 California Code of Regulations, that is not restricted under the

1 Real Estate Recovery Program pursuant to Chapter 6.5
2 (commencing with Section 10470) of Part 1 of Division 4 of the
3 Business and Professions Code.

4 ~~(2) A surety bond in an amount equal to at least twice the value~~
5 ~~of the property that is subject to the contract.~~

6 *(2) A surety bond for each contract in an amount equal to at*
7 *least one-third of the median home price, as published by the*
8 *California Association of Realtors, for the metropolitan area within*
9 *which the property is located or, if data for the metropolitan area*
10 *is not available, for the county in which the property is located.*
11 *The bond shall be executed by a corporate surety admitted to do*
12 *business in this state. The bond shall be made in favor of the*
13 *homeowner or, if the homeowner cannot be found, the State of*
14 *California for the benefit of a homeowner for damages resulting*
15 *from any statement made, or act committed by, the representative*
16 *in any manner connected with the equity purchaser's acquisition*
17 *of a residence in foreclosure, receipt of any consideration or*
18 *property from or on behalf of the equity seller, or the performance*
19 *of any act prohibited by this chapter.*

20 SEC. 2. No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within
27 the meaning of Section 6 of Article XIII B of the California
28 Constitution.